

DOCKET FILE COPY ORIGINAL

**ORIGINAL**

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K STREET, NW, SUITE 300  
WASHINGTON, DC 20007-5116  
TELEPHONE (202) 424-7500  
FACSIMILE (202) 424-7645  
WWW.SWIDLAW.COM

WILLIAM L. FISHMAN  
DIRECT DIAL (202) 945-6986  
WLFISHMAN@SWIDLAW.COM

NEW YORK OFFICE  
919 THIRD AVENUE  
NEW YORK, NY 10022-9998  
(212) 758-9500 FAX (212) 758-9526

September 14, 2001

**VIA HAND DELIVERY**

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-A325  
Washington, D.C. 20554

**RECEIVED**

SEP 14 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY


Re: *Telecommunication Relay Services and Speech-to-Speech Services for Individuals  
with Hearing and Speech Disabilities, CC Docket No. 98-67*

Dear Ms. Salas:

Enclosed is an original and four copies of the Comments of Telecommunications for the Deaf, Inc. bearing the above caption. In addition to the required copies we have provided five additional copies for distribution to the Commissioners.

Please date stamp and return the enclosed extra copy of this filing. Any questions should be directed to the undersigned. Thank you very much.

Sincerely,

  
William L. Fishman

Enclosures

cc: Pam Gregory, CIB  
Karen Peltz Strauss, CIB

Before the  
Federal Communications Commission  
Washington, D.C. 20554

**RECEIVED**

SEP 14 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Telecommunication Relay Services )  
And Speech-to-Speech Services for )  
Individuals with Hearing and Speech )  
Disabilities )

CC Docket No. 98-67

**COMMENTS OF TELECOMMUNICATIONS FOR THE DEAF, INC.**

Telecommunications for the Deaf, Inc. ("TDI") respectfully submits the following comments in response to the Federal Communication Commission's ("Commission") Public Notice seeking Comments,<sup>1</sup> released on July 16, 2001, regarding the above-captioned proceeding.

**I. SUMMARY**

TDI supports Hamilton's and Sprint's requests for temporary waivers in the Video Relay Service ("VRS") of the following minimum standards: types of calls handled, emergency call handling, speed of answer, equal access to interexchange carriers, and pay-per-call services. Strict compliance with the existing standards would be detrimental to the public interest. However, TDI also respectfully requests that a firm deadline be established to ensure that the goals of functional equivalence will be met. The temporary waivers will enable Sprint and Hamilton, along with other companies that provide such services, to

---

<sup>1</sup> DA 01-1706, *In the Matter of Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Seeking Comment on Requests for Temporary Waiver of Video Relay Service Requirements, released July 16, 2001. The Public Notice requires Comments to be filed 30 days after its publication in the Federal Register, which occurred on August 15, 2001 (66 F.R. 42858).

receive funding from the Interstate TRS Fund—to compensate them for their research and efforts in experimentation.

## **II. INTRODUCTION**

### **A. TDI (Telecommunications for the Deaf, Inc.)**

TDI is a national advocacy organization actively engaged in representing the interests of the twenty-eight million Americans who are deaf, hard of hearing, late deafened, and deaf-blind. TDI's mission is to promote equal access to media and telecommunications for the aforementioned constituency groups through consumer education and involvement, technical assistance and consulting, application of existing and emerging technologies, networking and collaboration, uniformity of standards, and national policy development and advocacy. Only through equal access will the twenty-eight million Americans who are deaf, hard of hearing, late deafened, and deaf-blind be able to enjoy the opportunities and benefits of the telecommunication revolution to which they are entitled. Furthermore, only by ensuring equal access for all Americans will society benefit from the myriad skills and talents of persons with disabilities.

TDI agrees with Sprint that the potential market for VRS is significant and that the service will *directly* benefit the deaf individuals who primarily communicate through American Sign Language (ASL).<sup>2</sup> Not only will the primary ASL users benefit from this technology, individuals who rely on speechreading will also profit from this service. For all, the facial expressions that convey emotional undertones, an integral part of human communication, will finally be discernable.

---

<sup>2</sup> The Commission has already adopted this view. See CC Docket No. 98-67, *Telecommunications Relay Services*, 15 FCC Rcd 5140, 5153 (¶ 23). “[W]e agree with commenters who argue that [VRS] will make relay

For primary ASL users, this service has the potential of achieving the goal of functional equivalence.<sup>3</sup> Despite the promising benefits, the market is in its infancy and is expected to remain so for the time being. There is no established TRS product that will enable all provisions of VRS to meet quality assurance/minimum standards. Because we do not have readily available technology to offer such services at the required quality levels, the minimum standards, if enforced, would hinder the rollout of VRS. Therefore, to allow VRS to reach functional equivalence, several minimum standards should be temporarily waived.

It must be acknowledged that there is enormous market potential for VRS. Many of our constituencies have computers with sufficient bandwidth. They just need extra time to become aware of, and to feel comfortable with, emerging technologies — such as better bandwidth or broadband services and quality video products. The market is beginning to offer an attractive array of quality video products — it just takes additional time for the market to come up with newer and better products. The waivers will allow the parties involved to monitor such developments and, after a period of a year or two as later proposed in this filing, to determine the appropriate minimum standards—standards that are not currently known. Therefore, experimentation<sup>4</sup> with the various models of video relay

---

services functionally equivalent to conventional telephone services for individuals whose first language is American Sign Language.”

<sup>3</sup> TDI is aware that the term “functional equivalence” has not been fully defined. However, TDI believes, as earlier proposed by the TRS Coalition, that it should be defined as “Performance in a TRS call of substantially the same function to achieve the same result as that in a voice-to-voice telephone call by individuals who do not need TRS for effective communications. Functionally equivalent communications must ensure efficient telephone calls that include equal costs to consumers, call blockage no different than that experienced by voice-to-voice non-TRS callers, allowing choice of carriers for all types of toll calls, and real-time communications in transmission and reception of speech and text, using advanced and efficient technology, as it becomes technically feasible.”

<sup>4</sup> See Docket 98-67, *supra*, at 5153 (¶23), “We are concerned that mandating [VRS] on a widespread basis at this early stage in its technological development could stymie experimentation with different technologies. We believe that allowing experimentation will result in better [VRS], and therefore complies with the statutory mandate that TRS services are to be provided to the ‘extent possible’ and in ‘the most efficient’ manner.”

provisions (including using video through the Internet) must be allowed so that the consumer will be able to determine what is most desired and practical. We suggest the Commission set such period at one year and revisit the issue on its own motion at the end of that period.

This experimentation can be successfully done through multi-vendoring, where providers would offer their services along with their features, and the deaf and hard of hearing consumers who utilize the provisions will be able to determine the most qualified choice. Due to the likely use of the Internet by VRS, it is best that VRS is offered in a nationwide mode. This will promote competition and innovation, thus ensuring that high quality services are offered.

#### **B. Video Relay Service**

When using Video Relay Service (VRS), a customer initiates a VRS call utilizing high speed access and a video camera to the VIO (Video Interpreting Operator) center. Once the connection is made between the caller and the center, the caller uses American Sign Language to state his or her intent to place an outgoing call. An outgoing voice connection is made to the intended receiver over traditional telephone lines. After the connection, the parties then communicate through a qualified interpreter at the VIO center.

The benefits of VRS are dramatic. It brings a new dimension to traditional text and voice relay services by using video technologies commonly available today. Conversations that take place in the VRS context occur naturally in both pace and form, compared to conversations using text and voice through conventional relay service, forcing each party to take turns at talking and not being able to interrupt. The goal of functional equivalence is brought closer because the amount of time required to interpret words and phrases is significantly less than the time required to type and read text-based conversations. Even

more significantly, the meanings, voice inflections and nuances can be clearly conveyed through sign language as opposed to lines of text. An important example of greater functional equivalence is seen where a deaf caller, while accessing an interactive voice response menu, would be able to complete the call with only one dial-in by the operator to the interactive voice relay (IVR) system, as opposed to the traditional TRS, where it would require several dial-ins to complete the call. Here, time and money are saved, and the time spent for a call completed through VRS is more nearly equivalent to that required of a hearing counterpart making a call. Moreover, some users have difficulty utilizing keyboards for placing calls, or are not skilled typists — putting them at an inherent disadvantage when attempting to initiate conversation over text relay services.

TDI is very enthusiastic about developments in the VRS, and is pleased that several vendors, including Sprint, CSD, and AT&T now offer this kind of relay calling. We are very well aware that VRS is still in development, and it will take time before it becomes a full-fledged communications medium. Hence, the Commission must remain very cautious in developing standards that will have an impact on the provision of services. VRS promises unlimited and dramatic benefits for the deaf and hard of hearing communities, and everyone involved must be careful lest its development be delayed or inhibited by prematurely or otherwise over-regulating the service. Simply put, the Commission must give the service space and time to grow, with appropriate funding. VRS will definitely be initiated by a significant large percentage via the Internet. It is therefore critical that the FCC determines its level of legal authority and responsibility to oversee Internet access for people with disabilities and other consumer groups.

There is a consensus among the deaf and hard of hearing community that for the time being, only VRS is able to provide conversations that are equivalent functionally to telephone conversations enjoyed by hearing people. Furthermore, TDI sees VRS as the next step in the convergence of the latest technological advances in communication. TDI looks forward to the day when relay services will be coupled up, offering audio, video and text services in the same package. This is entirely possible through the use of instant messaging, which now has audio and video capabilities. Such offerings would be a boon for all deaf and hard of hearing individuals.

### **C. Request for Temporary Waivers of Minimum Standards**

Hamilton and Sprint understandably request waivers<sup>5</sup> of certain mandatory minimum requirements for providing VRS. Consideration of these waivers implicates the technical limitations of video technology, the carriers' ability to provide adequate services, and the need for equal access as required by TRS regulations and Section 255. However, to ensure the quality of service provided as well as functional equivalence, there are certain minimum standards that must not be waived.

Both Hamilton and Sprint seek exemption from several portions of 47 CFR §64.603 and §64.604. More specifically, temporary waivers are requested for the types of calls to be handled,<sup>6</sup> emergency call handling,<sup>7</sup> speed of answer,<sup>8</sup> equal access to interexchange carriers,<sup>9</sup> and pay-per-call services.<sup>10</sup> In considering the requests for waivers, we address the

---

<sup>5</sup> Hamilton Telephone Company, *Request for Clarification and Temporary Waiver* (filed Apr. 6, 2001); Sprint Communications *Petition for Temporary Waiver* (filed June 4, 2001).

<sup>6</sup> 47 CFR §64.603.

<sup>7</sup> 47 CFR §64.605(a)(4).

<sup>8</sup> 47 CFR §64.604(b)(2).

<sup>9</sup> 47 CFR §64.604(b)(3).

<sup>10</sup> 47 CFR §64.604(b)(6).

benefits of relaxing these minimum service requirements and comment on the extent to which the Commission should grant a deferral of each of these minimum requirements and the appropriate period for which any deferral should be granted.

#### **D. Types of Calls Handled**

As the Commission recognizes, typing, ASCII and Baudot have no relevance to VRS,<sup>11</sup> but it is important to note that spelling is important, especially for the callers who desire transliteration, as accurate spelling in such cases is important. This is true also for conversations involving proper names, place names, specific technical, medical, legal, and similar terms.

With the provision of VRS, TDI does not see a need to include STS or hearing carryover (HCO), so the requirements for STS and HCO should be waived. As for Voice Carryover (VCO), the technology as it exists today does not permit this to be implemented. But the vendors must be required to provide such services within a reasonable time. Also, the technology does exist for Two Line Voice Carry Over (2LVCO), so this requirement must be in place. Moreover, the requirement that VRS must be able to relay Spanish calls should not be waived, as it would not be fair to the Spanish-speaking population. TDI is aware of the apparent lack of enough qualified Spanish sign language (MSL) interpreters, as well as training programs for this key resource group. While we acknowledge this kind of challenge, we call on TRS vendors and state relay administrators to make every effort to ensure that all needs across a wide spectrum are met.

---

<sup>11</sup> See *Telecommunications Relay Services*, *supra* at ¶42.



### **E. Emergency Calls**

Section 64.404(a)(4) requires that TRS providers have in place a system for emergency calls that automatically and immediately transfers the caller to the nearest Public Safety Answering Point (PSAP). TDI concurs that, it is currently unrealistic to require such an automated system to be in place due to technical limitations. Hamilton reasonably argues that time is required to determine the market's choice of technology for the incorporation of such services into the platforms. The full capabilities of VRS are still not known, and more research and monitoring must be done before decisions are made.

Both Sprint and Hamilton argue the emergency call handling requirement should be temporarily waived because it would not make sense for a VRS user to make an emergency call due to the location of current VRS services,<sup>12</sup> or because of the time required to set up a VRS call due to the synchronization of the video signals over multi-channel broadband facilities. A TRS provider must be able to handle emergency calls across all platforms, regardless of the time needed to access a platform. But, for the time being, due to technical limitations, automated systems of emergency call handling should not be required until it is possible to do so and this limitation should be publicly acknowledged by the Commission and the service providers. Such acknowledgements could be in the form of a requirement mandating every VRS service provider to make clear and bold written statements on the website and any promotional materials explaining the shortcomings and potential dangers of VRS in contacting a subscriber's local 911 center. TTY users must be encouraged to either call the 911 number directly, or through a traditional relay service. This should reduce the number of potential incidents.

However, VRS providers must have in place a system which, in the case of an emergency call, provides access to a 911 database that will allow a CA to contact a 911 center with all of the necessary information, after receiving it from the caller. This is the best solution for the time being.

#### **F. Speed of Answer**

TRS requirements mandate that 85 percent of relay calls must be answered within 10 seconds,<sup>13</sup> and no more than 30 seconds shall elapse between the receipt of dialing information and the dialing of the requested number.<sup>14</sup> Both Sprint and Hamilton request a waiver of this requirement, noting that it would impose undue and unnecessary costs which would deter a provider from offering such services. Examples of such costs include the need for new and specially trained communication assistants (CA) for VRS calls, the shortage of qualified interpreters, and the costs for daily tracking of all calls. Also, Hamilton notes that the projected call volumes are basically unknown for the fledgling service.

At the present time, we do not yet know the full capabilities of VRS because it has been implemented only in a few states.<sup>15</sup> Hence, the speed of answer requirement should be temporarily waived, but service providers must be strongly encouraged to diligently meet the needs of the callers. A firm deadline should be established so that Hamilton, Sprint, and other service providers will know by what date they will be expected to meet the 85/10 requirement imposed on traditional relay services. TDI has recently learned that a potential

---

<sup>12</sup> Currently, in North Carolina, an individual desiring to make a VRS call must travel to a designated location where the necessary VRS equipment is installed.

<sup>13</sup> § 64.604(b)(2).

<sup>14</sup> *Id.*

<sup>15</sup> VRS is offered in Texas for individuals that have the supporting equipment (*i.e.*; videophones). In North Carolina, there are seven centers located in various locations to which callers must travel in order to initiate a video relay call.

VRS vendor will offer service that meets the 85/10 requirements. While full details of this are not yet known, we are cautiously optimistic that the waiver period need not be extensive. For the time being, TDI suggests a deadline of a maximum of one to two years be imposed, to allow vendors to assess the capability of meeting the 85/10 requirement.

#### **G. Equal Access to Interexchange Carriers**

Both Sprint and Hamilton assert that because it is technically infeasible to place in their VRS platform the capability to give callers the option of choosing their long distance carrier to handle such calls, such a requirement should be temporarily waived. TDI reluctantly concurs. However, once a technically practical solution is found, the temporary waiver should be lifted. As in other instances, TDI believes an additional delay of one to two years is reasonable, taking into account the probability of finding a solution by that date.

#### **H. Pay-Per-Call Services**

Both Sprint and Hamilton assert that it is technically infeasible for an interface between the TRS and VRS platforms to provide users with the ability to make pay-per-call services. Again, TDI reluctantly concurs with the conclusion. A temporary waiver should be granted, with a deadline for providing such services in place. The new deadline, as is the case above, including the probability of finding a practical technical solution, should be one to two years.

Sprint's Request for Waiver contends that a VRS caller "may not want to waste the time or incur the additional expense of traveling to a remote site merely to obtain such information or participate in such poll through VRI." While Sprint makes a valid point, TDI feels that it is up to the individual to make a call from anywhere as he or she sees fit, regardless of technology used. VRS providers must be able to provide services for all types

of calls, regardless of their purpose. However, everyone knows that it is desirable that there be multiple options available—calling from a remote relay center, local libraries, service centers or from the comforts of one’s home or office, with the appropriate equipment. The availability of different options must be assured to provide full access to all types of TRS/VRS calls.

### **III. CONCLUSION**

In sum, current enforcement of the minimum standards will impede the development of new technologies and standards, and also will limit consumers’ access to products that meet the functional equivalence criterion. The Commission should allow VRS more time to develop into a complete service—to allow deaf and hard of hearing individuals to fully benefit from this revolutionary medium. The Commission should monitor diligently the progress made by the current service providers in Texas and North Carolina in order to assess the benefits and challenges that come with making, facilitating or receiving a VRS call. This will allow the Commission, the providers, and the public to develop a better understanding of this potentially valuable service while it grows, for the moment with limited regulations, all the while assuring its quality. However, TDI also urges the Commission to adopt deadlines to be implemented after an appropriate developmental period of twelve months to two years.

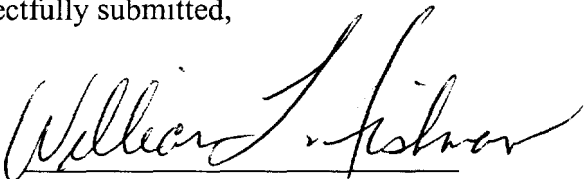
TDI suggests that the compliance deadlines be extended uniformly for one to two years after adoption of an Order responding to the waiver requests, subject to a subsequent Commission-initiated inquiry and demonstration by interested parties that such deadline is inappropriate and should not be enforced.<sup>16</sup> Stated differently, the developmental period

---

<sup>16</sup> Of course, to permit it to timely consider any further waiver request or other rule modifications, the Commission should commence the appropriate proceeding in advance of the newly-established compliance date.

would presumptively end after one to two years and the burden would lie with any party seeking a further delay to justify such request. This approach properly balances the requests for suspension of the current deadlines with a requirement of a showing of need for further delays. TDI recognizes that such a uniform extension is not as closely tailored to individual issues as might be desirable. However, at this stage there is no adequate basis for setting individualized extensions. TDI therefore suggests that the uniform extension of one to two years be implemented now but notes that the need for further case-by-case extensions could be determined later after intensive research, taking into consideration all relevant factors including collaboration among the Commission, industry and consumers.

Respectfully submitted,

By: 

Claude Stout  
Executive Director  
Telecommunications for the Deaf, Inc.  
8630 Fenton Street, Suite 604  
Silver Spring, MD 20910-3803  
Telephone: (800) 735-2258 (MD Relay)  
(301) 589-3006 (TTY)  
Facsimile: (301) 589-3797

William L. Fishman  
Swidler Berlin Shereff Friedman LLP  
3000 K Street, N.W., Suite 300  
Washington, DC 20007-5116  
Telephone: (202) 945-6986  
Facsimile: (202) 424-7645

386395